BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Ivan & Mary Ann Ashworth Dist. 15, Map 96, Control Map 96, Parcel 70.00, Parcel 70.00, S.I. 000 & 001 Commercial and Residential Property Tax Year 2006	)) Blount County)))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

S.I. 000

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$37,100	$42,800	$79,900	$19,975

S.I. 001

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$326,400	$7,500	$333,900	$133,560

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on December 13, 2006 in Maryville, Tennessee. In attendance at the hearing were Mr. and Mrs. Ashworth, the appellants , Mike Morton, Blount County Assessor of Property, and Barry Mathis, Chief Deputy Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property, located on Maggie Lane in Townsend, is presently appraised in the aggregate as a six (6) acre site improved with a residence and mobile home park. The assessor has subclassified one (1) acre and the residence residentially (special interest 000); the remaining five (5) acres and twenty-six (26) pad *sites* (special interest 001) have been subclassified commercially. As indicated above, special interests 000 and 001 have been appraised at $79,900 and $333,900 respectively.

State Board of Equalization Rule 0600-1-.08 provides in pertinent part as follows:

> (1) Except by written directive of the Executive Secretary, no appeal which is initiated under Rule 3(1)(1), (2), or (4) will be docketed for a hearing or pre-hearing conference before an administrative judge unless the appropriate appeal form appears to have been fully completed in good faith. If the valuation of the subject property is at issue, the appeal form must include, without limitation:
>
> (a) a bona fide estimate of the market value of the property as of the relevant assessment date; and
> (b) a brief statement of the basis for that opinion.

Since the taxpayers' appeal form did not provide a contention of value as required in paragraph 16, the administrative judge began the hearing by asking the taxpayers their contention of value. Mrs. Ashworth stated that the taxpayers had "no idea" what their property was worth, but believed the appraisal was erroneous for the reasons summarized below. The administrative judge proceeded with the hearing assuming a contention of value would ultimately be forthcoming. Unfortunately, the taxpayers never actually asserted the value they were seeking.

The taxpayers essentially stated five (5) reasons why they believed the current appraisal of subject property should be reduced. First, the 2006 countywide reappraisal caused the appraisal of subject property and associated taxes to increase excessively. The taxpayers maintained that any such increases should occur in a more reasonable progression. Second, subject property was purchased in two tracts and the deed calls for a total of 5.39 acres "more or less." The taxpayers argued that the assessor improperly rounded the acreage to 6.0 acres. Third, the taxpayers contended that subject property does not generate sufficient income to justify the current appraisal. Fourth, the taxpayers argued that only sixty percent (60%) of subject property is used in conjunction with the mobile home park. Fifth, Mrs. Ashworth testified that the mobile home park has only sixteen (16) pads, most of which are not even used.

The assessor contended that special interests 000 and 001 should be valued at $79,900 and $330,000 respectively. In support of this position, the cost and sales comparison approaches were introduced into evidence. In addition, Mr. Mathis testified why in his opinion Old Highway 73 constitutes the most reasonable place to differentiate between residential and commercial highest and best use. Finally, Mr. Morton testified that the twenty-six (26) "pads" listed on the property record card reflect "pad sites" rather than concrete pads or the like. Mr. Mathis recommended reclassifying the pad sites as "poor" pursuant to the classifications summarized at tab seventeen (17) of his report (exhibit 1).

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Blount County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. As previously noted, the taxpayers did not actually express an opinion of market value. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

Final Decision and Order at 2.[1] The Commission has also ruled that taxes are irrelevant to the issue of market value. See *John C. and Patricia A. Hume* (Shelby Co., Tax Year 1991).

With respect to subject acreage, the administrative judge finds that the 6.0 acres assumed by the assessor represents "calculated" acreage not rounded acreage as asserted by the taxpayers. The administrative judge finds that assessment officials often utilize calculated acreage because the acreage called for in deeds in many cases is inaccurate. Indeed, most deeds provide for a certain number of acres "more or less." As noted by the assessor, the taxpayers are always free to have a survey done. Absent additional proof from the taxpayers, the administrative judge has no choice except to presume the current records are correct.

The administrative judge finds that the taxpayers "income approach" basically consisted of a statement in the attachment to the appeal form that "[t]he profit made on Tuckaleechee Mobile Home Park in 2005 was $19,939.47 according to my tax return." Respectfully, the administrative judge finds that the foregoing standing by itself does not constitute an income approach or allow one to arrive at an estimate of market value.

The administrative judge finds Mr. Mathis explained in some detail the basis for his decision to subclassify five (5) acres commercially and one (1) acre residentially. The administrative judge finds it unclear from Mrs. Ashworth's testimony how she arrived at her contended allocation.

The final issue before the administrative judge concerns the pad sites. As explained at tab seventeen (17) of the assessor's exhibit, a "mobile home park site pad" is defined as "a specific site prepared for a mobile home hookup. . . ." The sites are then classified as anywhere from "excellent" to "poor" in accordance with the descriptions set forth at tab seventeen (17). The administrative judge finds that a "poor" pad is defined as a "dirt or

[1] Blount County last had a countywide reappraisal in 2001. Consequently, the increased value for tax year 2006 does not reflect the change in value over a single year.

gravel pad [with] [b]asic utilities [and] poor construction." The administrative judge finds that subject mobile home park seemingly has twenty-six (26) pad sites based upon the testimony of Messrs. Mathis and Morton.

ORDER

It is therefore ORDERED that the following values and assessments be adopted for tax year 2006:

S.I. 000

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$37,100	$42,800	$79,900	$19,975

S.I. 001

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$326,400	$3,600	$330,000	$132,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 4th day of January, 2007.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ivan & Mary Ann Ashworth
Mike Morton, Assessor of Property